

**SUBCHAPTER N : HANDLING OF WASTES FROM COMMERCIAL
FACILITIES ENGAGED IN LIVESTOCK TRAILER CLEANING
§§321.251-321.259**

§321.251. Statement of No Discharge Policy.

It is the policy of the commission that there shall be no discharge of waste or wastewater from commercial livestock trailer cleaning facilities into water in the state. These materials shall be retained and utilized or disposed of on agricultural land. Any discharges from commercial livestock trailer cleaning facilities into water in the state shall be considered unauthorized discharges. No person shall make such discharge without authorization or permit from the commission.

Adopted June 26, 1996

Effective July 26, 1996

§321.252. Definitions.

The following words and terms used in this subchapter shall have the following meanings unless the context clearly indicates otherwise.

Agronomic Rate - The wastewater application rate designed:

(A) to provide the amount of nitrogen needed by the crop or vegetation grown on the land; and

(B) to minimize the amount of nitrogen in the wastewater that passes below the root zone of the crop or vegetation grown on the land to the ground water.

Edwards Aquifer - That portion of an arcuate belt of porous, water-bearing limestones composed of the Comanche Peak, Edwards, and Georgetown formations trending from west to east to northeast through Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, and Williamson Counties. (See Chapter 313 of this title relating to Edwards Aquifer.)

Existing Facilities - Commercial livestock trailer cleaning facilities in active operation prior to January 5, 1996.

Facility Wastewater - Any livestock trailer cleaning wastewater collected for treatment and disposal at a commercial facility, in accordance with the requirements of this subchapter.

Grab Sample - An individual sample collected in less than 15 minutes.

Livestock Trailer Cleaning Facilities - Facilities which provide means to remove, contain, treat and dispose of wastes from livestock trailers.

New Facilities - Commercial livestock trailer cleaning facilities not defined in this section as existing facilities.

Publicly Owned Treatment Works or "POTW" - A treatment works owned by a state or municipality, which includes any device or system used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. This definition includes sewers, pipes or other conveyances only if they convey wastewater to a POTW providing treatment. This term also means the municipality which has jurisdiction over indirect discharges to and discharges from such a treatment works.

Recharge Zone - Generally, that area where the Edwards and associated limestones crop out in Kinney, Uvalde, Medina, Bexar, Comal, Hays, and Williamson Counties and the outcrops of other formations in proximity to the Edwards limestone, where faulting and fracturing may allow recharge of the surface waters to the Edwards Aquifer, and the area in Uvalde County within 500 feet of the Nueces, Dry Frio, Frio, and Sabinal Rivers downstream from the northern Uvalde County line to the recharge zone as otherwise delineated on official maps located in the offices of the commission and the Edwards Underground Water District. (See Chapter 313 of this title relating to Edwards Aquifer.)

Registrant - An individual or entity authorized by the executive director to dispose of wastewater from commercial facilities associated with the handling of waste from livestock trailer cleaning under the terms and requirements of this subchapter.

Storm water - Storm water runoff, snow melt runoff, surface runoff, and drainage.

Adopted June 26, 1996

Effective July 26, 1996

§321.253. Purpose and Applicability.

(a) The purpose of this subchapter is to regulate by rule the removal, containment, treatment and disposal of wastes occurring at commercial livestock trailer cleaning facilities. Certificates of registration issued under this chapter are subject to Chapter 50, Subchapter C of this title (relating to Action by Executive Director). The requirements of this subchapter apply to only those livestock trailer cleaning facilities that are described in both paragraphs (1) and (2) of this subsection:

(1) The facility is commercial. A facility is “commercial” if the owner or operator provides trailer cleaning services to other persons for profit, or provides such service in conjunction with other services.

(2) The facility utilizes evaporation ponds, storage pond(s) or other pond(s) with land application as a means of treatment and disposal.

(b) The requirements of this subchapter do not apply to other livestock trailer cleaning facilities.

(c) A livestock trailer cleaning facility that is subject to the requirements of this subchapter must also comply with other commission rules, if applicable.

(d) Executive director authorization by a registration issued pursuant to this subchapter is not required if untreated facility wastewater is either discharged or transported to a POTW which has a wastewater permit issued by the agency.

(e) Notwithstanding subsection (a) of this section, a livestock trailer cleaning facility that is otherwise subject to the requirements of this subchapter, but which is a component of a feedlot or concentrated animal feeding operation regulated under the requirements of this chapter or regulated by permit as provided by Chapter 305 of this title (relating to Consolidated Permits), is not subject to the requirements of this subchapter.

(f) If the executive director denies a registration application under this subchapter, the facility must obtain a permit pursuant to the Texas Water Code, Chapter 26.

(g) New livestock trailer cleaning operations are prohibited from being registered under this rule when located on the Edwards Aquifer Recharge Zone. New livestock trailer cleaning operations located on the Edwards Aquifer Recharge Zone are required to submit an application for permit to the agency's Wastewater Permits Section (MC 148).

Adopted June 26, 1996

Effective July 26, 1996

§321.254. Certificate of Registration and Public Notice.

(a) An applicant must apply for registration on a form approved by the executive director. A completed application shall be submitted to the agency's Wastewater Permits Section (MC 148). Before issuing a certificate of registration, the executive director will review the application to determine whether the facility operations meet the requirements of §321.255 of this title (relating to General Requirements for Containment of Wastes and Pond(s)) and §321.256 of this title (relating to General Requirements for Land Application).

(b) The executive director may take action on an application to issue a certificate of registration, provided:

(1) At least 30 days prior to approving an application and issuing the certificate of registration, notice of the application has been provided by the applicant, at the applicant's cost:

(A) in a newspaper regularly published and generally circulated within the county and area wherein the proposed facility and discharge is to be located;

(B) in writing by certified mail (return receipt requested) to the county judge of the county in which the facility is to be located and also when the facility is to be located within the jurisdictional boundaries of a city or town, to the mayor of that city or town; and

(C) the notices of application are provided in a format approved by the commission and shall fairly set forth the substance of the application and proposed action, including but not limited to, the general location of any point of discharge, the method of obtaining additional information about the application, and the method for submitting comment on the application.

(2) With any application for a registration, submitted pursuant to this subchapter, the applicant shall also provide proof to the executive director that public notice was provided in accordance with paragraph (1) of this subsection. The proof shall be provided within 14 days of obtaining the following information, which shall consist of:

(A) a signed affidavit from the publisher acknowledging that the notice was published, indicating the date of publication, and providing a copy of the newspaper clipping; and

(B) a sworn statement from the applicant that written notice was mailed to the appropriate entities, identified in this subsection, along with a copy(s) of the return receipt acknowledgment from the U.S. Postal Service.

(3) The application, including the material required by paragraph (2) of this subsection, shall be mailed to the agency's Wastewater Permits Section (MC 148). The application shall undergo review by the executive director following the determination that notice requirements of this section are met.

(4) Any pertinent comments received by the executive director prior to the end of the 30-day period, after all the notices have been provided, will be considered as a part of any decision of approval, denial, or modification of a request for registration from an applicant. The executive director shall mail notice of the final decision to the applicant and to any other person who submitted comments on the application.

(c) The public notice provisions of this section do not apply to a facility which is operating under an agency wastewater discharge permit if the facility applies for registration prior to the expiration date of the permit.

(d) Public notice provisions of this section do not apply to an existing facility which is not operating under an agency wastewater discharge permit if an application for registration is received by the executive director within 180 days after the date this rule takes effect.

(e) Livestock trailer cleaning facilities that are currently operating under a valid agency wastewater discharge permit may apply for registration of these operations prior to the expiration date of the permit. Upon issuance of the final registration, the executive director shall void the permit. This subchapter does not prevent the executive director from denying a registration application and requiring the facility to have a permit.

(f) An existing facility that does not hold a valid agency wastewater discharge permit must submit an application for registration or an application for a permit within 180 days after the date this rule takes effect.

Adopted June 26, 1996

Effective July 26, 1996

§321.255. Requirements for Containment of Wastes and Pond(s).

(a) All livestock trailers shall be washed out on a concrete area which is adequately curbed and sloped to allow for containment of all solids and liquids removed from the trailers. Manure may be separated and allowed to dry in this contained concrete area. Wastewater containing solids shall be conveyed directly from the contained concrete area to the treatment or storage pond(s). The pond(s) may be designed to treat wastewater using evaporation, with or without the recycling of wastewaters, as the sole means of disposal or in conjunction with land application.

(b) All pond(s) used for the retention of treated or untreated wastewater shall be adequately lined to control seepage. The following methods of pond lining are acceptable.

(1) In-situ clay soils or placed and compacted clay soils meeting the following requirements:

(A) More than 30% passing a No. 200 mesh sieve;

(B) Liquid limit greater than 30%;

(C) Plasticity index greater than 15;

(D) A minimum thickness of two feet;

(E) Permeability equal to or less than 1×10^{-7} cm/sec (the requirements described in this subparagraph apply only to new ponds constructed or modified after the effective date of these regulations); and

(F) Soil compaction will be 95% standard proctor density at optimum moisture content (the requirements described in this subparagraph apply only to new ponds constructed or modified after the effective date of these regulations).

(2) Membrane lining with a minimum thickness of 30 mils, and an underdrain leak detection system.

(3) An alternate method of pond lining may be utilized with prior approval from the executive director.

(c) The registrant shall furnish certification by a Texas Registered Professional Engineer that the completed pond lining meets the appropriate criteria described in this section prior to utilization of the facilities. The certification shall be sent to the agency's Wastewater Permits Section (MC 148) and a copy to the appropriate agency regional office.

(d) All wastewater retention ponds shall be operated in such a manner as to maintain a minimum freeboard of two feet and shall be monitored in each pond by use of an in-place gage. Gage measurements of freeboard shall be taken from each pond on each day that trailer cleaning services are provided, and the measurements shall be recorded. These records shall be maintained for a minimum of three years and shall be readily available for inspection by commission staff.

(e) All waste containment structures or ponds must be constructed to comply with minimum distance requirements specified in §290.41 of this title (relating to Water Sources) and with the minimum distance requirements specified in §338.43 of this title (relating to Location of Dewatering, Monitoring, Domestic, Industrial, Injection and Irrigation Wells).

(f) All waste containment structures or ponds must be protected from inundation by a 10-year, 24-hour rainfall event.

Adopted June 26, 1996

Effective July 26, 1996

§321.256. General Requirements.

(a) If land application is utilized for disposal of waste or wastewater, the following requirements shall apply:

(1) Utilization and disposal methods.

(A) Liquid and solid waste shall be distributed on agricultural lands so that neither the waste nor rainfall runoff discharge into water in the state.

(B) When irrigation disposal of wastewater is used, tailwater facilities shall be provided as necessary to prevent the release of applied wastewater to water in the state.

(C) Disposal of waste and wastewater shall be conducted in such a manner as to prevent nuisance conditions such as odors and flies.

(D) Wastewater shall not be irrigated when the ground is frozen or saturated or during rainfall events.

(2) Application rates. Liquid and solid waste or wastewater shall be applied in such concentrations and application to the soil shall be made at an agronomic rate suitable to the crop being grown, so as to not inhibit the growth of crops or forage or result in wastewater runoff.

(3) Management of wastes. Collection, storage, and disposal of liquid and solid waste or wastewater shall be carried out in accordance with recognized practices of good agricultural management.

(b) All solid waste materials stockpiled or retained on-site shall be isolated from all run-on storm water by dikes, terraces, berms, ditches, or other similar structures and shall be maintained so as to retain all rainfall which comes into contact with the stockpiled solid waste material.

(c) The facility shall take all steps necessary to prevent any adverse effects upon human health or safety, or to the environment. Any facility authorized under this subchapter shall report any noncompliance (including any unauthorized discharges or overflows) pursuant to the requirements of this subchapter which may endanger human health or safety or the environment. Report of such information shall be provided orally to the agency's regional office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided to the agency's regional office and to the agency's Water Section, Enforcement Division (MC 149), within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the

environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and, steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

(d) The executive director must be notified, in writing, of any change in control or ownership of facilities, or any expansion of facilities authorized under this subchapter. The applicant must send the notification to the agency's Wastewater Permits Section (MC 148).

(e) The executive director may require a facility which seeks authorization under this subchapter to apply for and obtain an agency permit. The executive director may declare that an application for permit must be submitted pursuant to the Texas Water Code, Chapter 26. In making such a determination, the executive director may consider such factors as necessary to carry out its powers and duties under the Texas Water Code and other laws of the State.

(f) The registrant authorized under the terms of this subchapter shall maintain records of the process control, maintenance activities, and solids disposal to include at a minimum: volume and dates on which solids were removed from the facility, identity of any transporter, location and identity of any solids disposal site, and method of final disposal. This information shall be maintained for a minimum of three years and shall be readily available for review upon request.

(g) The executive director may deny an application for registration on the following grounds: the potential or actual adverse impact on, or close proximity to, a public park, school, recreational area, spring, water supply well, surface water supply intake, water treatment plant intake, potable water storage facility or sewage treatment plant. In making such determination, the executive director may also consider other factors, as necessary to carry out its powers and duties under the Texas Water Code and other laws of the state.

Adopted June 26, 1996

Effective July 26, 1996

§321.257. Restrictions.

(a) This rule does not convey property rights or grant any exclusive privilege.

(b) Separate authorizations may be required by the executive director, municipalities, or other agencies for discharges to domestic sewage plants, storm water sewers, or for air emissions.

(c) Nothing in this rule shall be construed to authorize any injury to persons or property, or an invasion of other property rights, or any infringement of state or local law or regulation.

Adopted June 26, 1996

Effective July 26, 1996

§321.258. Enforcement and Revocation.

If any registrant or facility regulated by this subchapter fails to comply with the terms of this subchapter, the executive director may take enforcement action as provided by the Texas Water Code

and in accordance with Chapter 337 of this title (relating to Enforcement). The executive director may revoke any registration granted to a registrant or facility due to noncompliance with the requirements of this subchapter, after notice to the registrant and opportunity for hearing, and such registrant shall cease any discharge until such time as the facility is issued a wastewater discharge permit, an emergency order, or temporary order as provided by Chapter 305, Subchapter B, of this title (relating to Consolidated Permits) for the discharge of wastewater into or adjacent to water in the state.

Adopted June 26, 1996

Effective July 26, 1996

§321.259. Annual Waste Treatment Fee.++

In accordance with §§305.501-305.507 of this title (relating to Waste Treatment Inspection Fee Program), registrants authorized to dispose of livestock trailer cleaning waste under the requirements of this subchapter shall remit to the commission an annual waste treatment fee. The fee assessed annually shall be \$500 for any active facility or \$250 for any inactive facility. Any increased assessment above the fee amounts listed in this subsection for active and inactive facilities shall be in accordance with regulations adopted by the commission.

Adopted June 26, 1996

Effective July 26, 1996

Addition of new §§321.151-321.159

Date Adopted: June 26, 1996

Date Filed with the Secretary of State: July 3, 1996

Date Effective: July 26, 1996